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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,532	07/24/2001	John A. Wheatley	54358USA5J.067	4765

7590 12/19/2001

Attention: Stephen C. Jensen
Office of Intellectual Property Counsel
3M Innovative Properties Company
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St. Paul, MN 55133-3427

EXAMINER	
SHAFER, RICKY D	
ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 12/19/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/911,532	WHEATLEY ET AL
Examiner	**Group Art Unit**
R.D. SHAFER	2872

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 7/24/01.

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 30-40 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 30-40 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Interview Summary, PTO-413

☐ Notice of Informal Patent Application, PTO-152

☐ Other _____

Office Action Summary

1. Claims 31-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31, line 3, the use of the language "light....plane" is vague, indefinite and/or incomplete. It is unclear for the examiner whether the incident light is polarized or the film polarizes the light.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ormum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 30-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 5,486,949 to Schrenk et al Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/911,532) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 5,486,949 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

4. Claims 30-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 5,612,820 to Schrenk et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/911,532) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 5,612,820 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

5. Claims 30-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-16, 37, 38, 45, 46, 52, 53, 57, 58, 64, 65, 71 and 72 of U.S. Patent No. 5,686,979 to Weber et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/911,532) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 5,686,979 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

6. Claims 30-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 5,808,798 to Weber et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application (09/911,532) discloses no additional invention or discovery other than what was already claimed and patented in U.S. Patent 5,808,798 or what would have been obvious to one of ordinary skill in the art at the time the invention was made.

7. Any inquiry concerning this communication should be directed to R. D. Shafer at telephone number (703) 308-4813.

Shafer/ds

12/08/01

RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872